

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:22-cv-293-JRG
vs.	)	
	)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO, LTD;	)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,	)	
INC.; SAMSUNG SEMICONDUCTOR	)	
INC.,	)	
	)	
Defendants.	)	

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NETLIST, INC.,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:22-cv-294-JRG
vs.	)	
	)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;	)	
MICRON SEMICONDUCTOR	)	
PRODUCTS, INC.; MICRON	)	
TECHNOLOGY TEXAS LLC,	)	
	)	
Defendants.	)	

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**DECLARATION OF PHILIP WARRICK IN SUPPORT OF**  
**PLAINTIFF NETLIST, INC.'S OPPOSITION TO MICRON DEFENDANTS'**  
**MOTION TO STRIKE PLAINTIFF'S NOVEMBER 19, 2023**  
**SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 4 (DKT. 271)**

I, Philip Warrick, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. (“Netlist”) in the above-captioned action. I am a member in good standing of the State Bar of New York and have been admitted to practice before this Court. I provide this declaration in support of Netlist’s Opposition to Micron’s Motion to Strike Plaintiff’s November 19, 2023 Supplemental Response to Interrogatory No. 4 (Dkt. 271). I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Micron never provided any analysis of objective evidence (also known as secondary considerations) of non-obviousness in its interrogatory responses, despite being asked to “Set Forth Your Complete Basis for your affirmative defenses” in Netlist Interrogatory No. 14, which would include invalidity contentions as to obviousness and thus objective evidence of non-obviousness as well. *See* Micron’s November 14, 2023 Fourth Suppl. Responses and Objections to Netlist’s First Set of Amended Interrogatories (Nos. 1-20).

3. As reflected in an email sent by Ms. Yanan Zhao to Micron Counsel on November 16, 2023, Netlist designated Mr. Scott Milton under Fed. R. Civ. P. 30(b)(6) to testify regarding, among other things, Micron Topic #15:

All facts concerning any secondary considerations of non-obviousness on which You may rely to support the non-obviousness of any Asserted Patent, including, but not limited to, any facts showing that any of the claimed inventions of any Asserted Patent (i) were or have been copied; (ii) satisfied a long felt but unsolved need; (iii) succeeded despite the failure of others to achieve its claims; (iv) were commercially successful; (v) obtained unexpected results; (vi) possessed unexpected properties; (vii) have been licensed to other parties; (viii) were surrounded by skepticism at the time of the alleged invention; or (ix) or were not invented independently by other persons, either before the Named Inventors or at about the same time.

Mr. Milton provided detailed information in notes he prepared on this issue. Milton 11-20-2023 Depo. Tr. Ex. 1.

4. Micron did not seek an extension of the November 20, 2023 deadline for its

